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**PATENT**

on December 2, 2005

*Rimma Mitelman*  
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Reg. No. 34,396  
Attorney for Appellant(s)

12/02/05  
Date of  
Signature

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Customer No.: 000201  
Attorney Docket No.: C4243(C)  
Appellants: del Nunzio et al.  
Serial No.: 10/664,369  
Filed: September 17, 2003  
For: Detergent Compositions

Group: 1751  
Examiner: L. Douyon  
Englewood Cliffs, New Jersey 07632  
December 2, 2005

**BRIEF FOR APPELLANTS**

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Sir:

Enclosed herewith are three (3) copies of an Appeal Brief for Appellants.

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Respectfully submitted,

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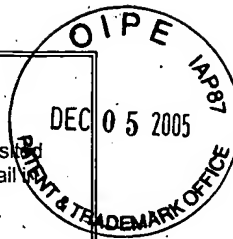
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UNUS No.: 02-0479-UNI

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**TABLE OF CONTENTS**

I. Real Party In Interest.....	3
II. Related Appeals and Interferences.....	4
III. Status of Claims.....	5
IV. Status of Amendments.....	6
V. Summary of the Claimed Subject Matter.....	7
VI. Grounds of Rejection To Be Reviewed Upon Appeal.....	8
VII. Appellant's Arguments.....	9
VIII. Appendix.....	11

**I. REAL PARTY IN INTEREST**

The real party in interest is Unilever Home and Personal Care USA, Division of CONOPCO, Inc., a corporation of New York having a principal place of business at 33 Benedict Place, Greenwich, Connecticut 06830.

**I. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

### **III. STATUS OF CLAIMS**

A. **TOTAL NUMBER OF CLAIMS IN APPLICATION**

Twelve (12) claims are presently pending.

B. **STATUS OF ALL THE CLAIMS**

Claims rejected – Claims 1-3, 5-10, and 14-16.

C. **CLAIMS ON APPEAL**

Claim 1-3, 5-10, and 14-16 are on appeal.

#### **IV. STATUS OF AMENDMENTS**

An amendment presented after Final Rejection was entered.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

The subject matter of independent claim 1 relates to granules for particulate detergent compositions. According to claim 1, the present invention provides an effervescent granule for use in particulate detergent compositions which comprises an acid source, a carbonate source and from 3 to 8 wt. % of solid surfactant particles of surfactant which in its isolated state is sufficiently solid such that it is pourable, the particles having  $d_{50}$  particle size of from 150 to 800 micrometres, wherein the granule is substantially free of alkyl benzene sulphonate surfactants.



**VI. GROUND OF REJECTIONS TO BE REVIEWED UPON APPEAL**

The Ground of Rejection to be Reviewed Upon Appeal is defined by the Examiner's rejection and is as follows:

- I. Claims 1-3, 5-10 and 14-16 are rendered obvious, under 35 U.S.C. §103(a), by Spadoni et al. (WO 98/46716), hereinafter "Spadoni" in view of Tadsen et al. (US Patent 5,527,489), hereinafter "Tadsen".

### **VIII. APPELLANTS' ARGUMENTS**

**I. Claims 1-3, 5-10 and 14-16 are rendered obvious, under 35 U.S.C. §103(a), by Spadoni et al. (WO 98/46716), hereinafter "Spadoni" in view of Tadsen et al. (US Patent 5,527,489), hereinafter "Tadsen".**

The present inventors have surprisingly found that an effervescent granule which comprises an acid source and a carbonate source together with a quantity of solid surfactant particles provides an effervescent granule with improved dispensing properties, improved structure and a rich foaming visual signal which provides a strong positive connotation in the mind of the end user. See page 3, lines 7 – 13 of the specification. In order to enhance the fizzing action and to provide a positive cue for the end user, the effervescent granules of the present invention comprise solid surfactant particles, the surfactant being sufficiently solid in its isolated state such that it is pourable. See page 6, lines 15 – 19 of the specification. The granules are substantially free of alkyl benzene sulphonate surfactants, because of their hygroscopicity. See page 7, lines 6 - 8 of the specification.

Appellants respectfully submit that Spadoni does not teach or suggest dry effervescent granules according to the present invention. Spadoni does not teach or suggest the extremely small particle size (or any particle size) of solid surfactant particles to be included into dry effervescent granules; or the substantial absence of LAS surfactant from the granules.

Appellants agree that Spadoni teaches the broad list of binders at the bottom of page 8. It is not clear how one of ordinary skill in the art would have been led by this teaching to arrive at appellants' granules which contain small particles of solid surfactant, yet are substantially free of LAS. One of ordinary skill in the art would have had to try a multitude of formulations to come up with appellants' invention. The standard of obviousness is not "obvious to try." Indeed, Spadoni specifically

illustrates dry effervescent granules containing LAS surfactant, if containing any surfactant at all. Thus, neither the broad teaching within Spadoni nor the concrete examples would have suggested appellants' invention, without the benefit of hindsight afforded by the present disclosure. Tadsen teaches an extremely broad range of surfactant size about 100 to 3,500 microns preferably from 200 to 2,000, whereas in the present invention particularly small-sized particles are used (150 to 800 microns). The selection of small-sized particles allows a more uniform distribution and thus requires less binder (hence, extremely low amount of surfactant particles in the granules of the present invention).

It is not seen how one of ordinary skill in the art, who has not had the benefit of hindsight afforded by the present disclosure, would have been led by the Spadoni/Tadsen combination to employ effervescent granules which are substantially free of alkyl benzene sulfonate, then pick another specific surfactant which is sufficiently solid such that it is pourable in its isolated state, then employ extremely small-sized surfactant particles in combination with relatively low surfactant levels. It is not seen what in the cited documents would have led one of ordinary skill in the art to pick these features, modify them, and then combine them in such a way as to attain appellants' effervescent granules.

Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection.

Respectfully submitted,



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### **APPENDIX OF CLAIMS**

The text of the claims involved in the appeal is:

Claim 1: An effervescent granule for use in particulate detergent compositions which comprises an acid source, a carbonate source and from 3 to 8 wt. % of solid surfactant particles of surfactant which in its isolated state is sufficiently solid such that it is pourable, the particles having  $d_{50}$  particle size of from 150 to 800 micrometres, wherein the granule is substantially free of alkyl benzene sulphonate surfactants.

Claim 2: An effervescent granule as claimed in claim 1, wherein the surfactant has a melting point of at least 30°C, preferably at least 40°C, more preferably at least 50°C.

Claim 3: An effervescent granule as claimed in claim 1, wherein the surfactant is an anionic surfactant.

Claim 5: An effervescent granule as claimed in claim 1, wherein the surfactant is an alkyl sulphate surfactant.

Claim 6: An effervescent granule as claimed in claim 5, wherein the alkyl sulphate surfactant is a C<sub>8</sub>-C<sub>15</sub> primary alkyl sulphate.

Claim 7: An effervescent granule as claimed in claim 6, wherein the alkyl sulphate surfactant is a C<sub>10</sub>-C<sub>14</sub> primary alkyl sulphate.

Claim 8: An effervescent granule as claimed in claim 1, which comprises from 20 to 80 wt%, preferably from 30 to 60 wt%, more preferably from 40 to 50 wt% of the carbonate source.

Claim 9: An effervescent granule as claimed in claim 1, which comprises from 10 wt% to 60 wt%, preferably from 20 wt% to 50 wt%, more preferably from 30 wt% to 40 wt% of the acid source.

Claim 10: An effervescent granule as claimed in claim 1, wherein the carbonate and the acid source make up at from 50 to 100 wt%, preferably from 60 to 99 wt%, more preferably from 70 to 95 wt%, most preferably from 80 to 90 wt% of the granule.

Claim 14: An effervescent granule as claimed in claim 1, wherein the ratio of the particle size of the effervescent granule to the d50 particle size of the surfactant is greater than 5:1, preferably from 6:1 to 1000:1.

Claim 15: A laundry detergent composition which comprises from 0.1 to less than 10 wt% of an effervescent granule as claimed in claim 1.

Claim 16: A detergent composition as claimed in claim 15, which comprises from 0.5 to less than 4 wt%, preferably from 0.5 to less than 2 wt%, of the effervescent granule.